

### REMARKS

Applicants respectfully request reconsideration of the instant application in view of the amendments, herein, and the following remarks:

The following claims are *pending*: 1, 2, 4-7, 9-13 and 50-60 .

The following claims are *independent*: 1, 6, 9, 11, 12, 13, 50 and 54 .

The following claims were amended by way of the response filed on February 20, 2009: 4 and 9.

The following claims are *allowed*: 4, 9 and 50-60.

The following claims have previously been *withdrawn*: 14-49 and 61-65.

The following claims have been previously *cancelled* without prejudice or disclaimer: 3 and 8.

Applicants submit that the originally filed claims are patentable and reserve the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation/divisional application(s).

Applicants thank the Examiner for indication that claims 4, 9 and 50-60 are allowable.

In the Office Action dated May 29, 2009, the Examiner alleges that Applicants' Amendment/Response filed February 20, 2009 was non-responsive. More specifically, the Examiner states:

The reply filed on February 20, 2009 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): In the office action of August 21, 2008, Examiner discloses

"Further more, Kiron and Groveman do not explicitly teach collecting demand ... from a plurality of potential customers. On the other hand, Heffner discloses collecting demand ... from a plurality of potential customers (para. 0209, 0012-0013, 0019, 0078, 0127 - 0128, 0319, and 0328; fig. 5)...in which Applicant's representative requested that Examiner pointed out where Groveman teaches this limitation. Please note that Heffner teaches this limitation and not Groveman, thus Examiner is unable to response to Applicant's representative remarks.

(p. 2, Response to Amendment, Office Action)

Applicants respectfully disagree and submit that in the reply filed on February 20, 2009, Applicants did not "request that Examiner point out where Groveman teaches this limitation [of collecting demand ... from a plurality of potential customers]." Instead, Applicants submitted that Groveman did not discuss the claimed "wherein the demand includes, for each of the plurality of potential customers, a quantity of stock of each potential customer for investing in a pool in connection with said collared option hedge product" and requested that "the Examiner point out where, specifically, this claim feature is disclosed in the Groveman et al. reference" (p. 23, ¶ 2, Reply filed on February 20, 2009).

For the convenience of the Examiner, Applicants include the Remarks and Amendments as presented and submitted in the February 20, 2009 Amendment/Response:

**REMARKS:**

Claims 1, 2, 4-7, 9-13 and 50-60 are presented for examination. Claims 4 and 9 are amended hereby. Claims 3 and 8 are cancelled (without prejudice or disclaimer). Claims 14-49 and 61-65 are withdrawn (without prejudice or disclaimer).

Reconsideration is respectfully requested of the objection to claims 4 and 9.

The Examiner indicates (at page 2 of the August 21, 2008 Office Action) that claims 4 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4 and 9 have been so amended (that is, rewritten in independent form including all of the limitations of the base claim and any intervening claims).

Therefore, it is respectfully submitted that the objection to claims 4 and 9 has been overcome.

Notice is taken of the Examiner's indication (see page 5 of the August 21, 2008 Office Action) that claims 4, 9 and 50-60 recite allowable subject matter.

Reconsideration is respectfully requested of the rejection of claims 1, 2, 5-7 and 10-13 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application No. 2003/0074293 to Kiron et al., hereinafter "Kiron et al." in view of U.S. Patent No. 7,103,569 to Groveman et al., hereinafter "Groveman et al." and further in view of U.S. Patent Application No. 2003/0018558 to Heffner et al., hereinafter "Heffner et al.".

As described in detail in the specification, the present invention enables concentrated- position equity holders to pool their assets for participation in a derivative financial product (thus addressing certain conventional product shortcomings such as, for example, needing to be individually tailored for each individual customer).

Further, each of pending independent claims 1, 6, 11, 12 and 13 recites, *inter alia*, the following:

- "wherein the demand includes, for each of the plurality of potential customers, a quantity of stock of each potential customer for investing in a pool in connection with said collared option hedge product" (emphasis added)

**It is respectfully submitted, as best understood, that neither Kiron et al., Groveman et al. nor Heffner et al. (either alone or in combination) teach, show, or even suggest this claimed feature wherein demand collected from the plurality of potential customers "includes, for each of the plurality of potential customers, a quantity of stock of each potential customer for investing in a pool in connection with said collared option hedge product" (emphasis added).**

In this regard, and with reference first to Kiron et al., it is noted that this reference relates to an open end mutual fund securitization process. While this reference does appear to discuss a securitization process associated with an open end mutual fund, this reference does not appear to teach, show or even suggest the claimed feature wherein demand collected from a plurality of potential customers "includes, for each of the plurality of potential customers, a quantity of stock of each potential customer for investing in a pool in connection with said collared option hedge product" (emphasis added).

In fact, the Examiner himself appears to acknowledge this at page 3 of the August 21, 2008 Office Action, where it is indicated that:

- "However, Kiron does not explicitly teach wherein the demand includes for each of the plurality of potential customers a quantity of stock of each potential customer for investing in a pool in connection with said collared

option hedge product demand for collared option hedge product."

(emphasis added).

Thus, in an effort to cure this acknowledged deficiency of Kiron et al. to disclose this feature of the claimed invention, the Examiner cites Groveman et al. at col. 3, lines 31-67. More particularly, the Examiner indicates, at pages 3 and 4 of the August 21, 2008 Office Action, that:

- "On the other hand, Groveman discloses wherein the demand includes for each of the plurality of potential customers a quantity of stock of each potential customer for investing in a pool in connection with said collared option hedge product demand for collared option hedge product when he discloses a tracking basket of equities is selected using optimization techniques to ensure that the selected stocks (both identity and quantity) satisfy prescribed criteria and each of the equities in the tracking basket (or included in the index) is analyzed to determine the best candidates against which puts or calls can be sold (col. 3, lines 31-67). Groveman discloses the steps of enhancing the risk/reward profile of investing in the broader equity market or a particular sector of the market and offers the potential for profit in both rising and falling markets. Thus, it would have been obvious to one of ordinary skill in the art to demand for collared option hedge when determining options trading including collars in order to collectively track basket of selected equities as discloses in Groveman." (emphasis in original).

**Applicants respectfully disagree with this above analysis.**

More particularly, it is noted that this Groveman et al. reference relates to active account management using volatility arbitrage. While this reference does appear to discuss a tracking basket of equities that is selected using optimization techniques to ensure that the selected stocks (both identity and quantity) satisfy preselected criteria (wherein each of the equities in the tracking basket (or included in the index) is analyzed to determine the best candidates against which puts or calls can be sold), this reference does not appear to teach, show or even suggest the claimed feature wherein demand collected from a plurality of potential customers "includes, for each of the plurality of potential customers, a quantity of stock of each potential customer for investing in a pool in connection with said collared option hedge product" (emphasis added).

**In other words, the cited portion of Groveman et al. has been reviewed and, as best understood, does not disclose that the tracking basket of equities is necessarily stock of each potential customer for investing in a pool.**

For the Examiner's convenience, this cited portion of the Groveman et al. reference is cited below:

With reference now to FIG. 1, a tracking basket of equities is selected using optimization techniques to ensure that the selected stocks (both identity and quantity) satisfy prescribed criteria, as shown at step 110. Each of the equities in the tracking basket (or included in the index) is analyzed at step 120 to determine the best candidates against which puts or calls can be sold. At step 130, the total dollar premium that will be raised by selling puts and calls is determined. A significant portion of this total dollar premium is used to purchase a put on the underlying index in an amount sufficient to cover the notional amount of the

equities in the tracking basket. The notional amount refers to the total value of the tracking basket and, if any puts have been sold, also includes for all puts sold the sum of the puts' strike price times its quantity times 100, the ordinary contract multiplier for an options contract. The long puts on the underlying index is referred to herein as a "basket hedge," the number of such puts that are being purchased is a function of the notional value of the tracking basket, and the strike price of the puts being purchased is selected in view of the total dollar premium to be raised as well as risk tolerance of the selected portfolio strategy. The number of put options times their respective strike prices that comprise the basket hedge is preferably made equal to the notional value of the tracking basket, at step 140. Once the basket hedge is in place, the call and put options that were selected at step 120 are sold at step 150 to raise the premium required to cover and/or exceed the cost of the basket hedge from step 140. From time-to-time, as shown at step 160, the dispersion of the tracking basket is re-assessed using the optimization techniques of step 110 and the outstanding short and long options are either rolled or traded or permitted to expire, in accordance with predetermined criteria. For example, the predetermined criteria can include the expiration of any of the selected call/put options, any material change in the price of an equity in the tracking basket or in the price of the underlying index, any change in volatility of any equity or option, or a combination thereof. Such re-assessments of the dispersion characteristics of the tracking basket can result in the tracking basket 110 being rebuilt; however, the overall steps of the invention proceed as outlined above until such time that the tracking basket is liquidated.

If the Examiner remains of the opinion that Groveman et al. discloses wherein the demand includes for each of the plurality of potential customers a quantity of stock of each potential customer for investing in a pool in connection with said collared option hedge product, it is respectfully requested that the Examiner point out where, specifically, this claimed feature is disclosed in the Groveman et al. reference.

Regarding claims 2, 5, 7 and 10 it is noted that each of these claims depends (either directly or indirectly) from one of independent claims 1, 6, 11, 12 and 13. Thus, even putting aside any additional patentable distinctions provided by these claims 2, 5, 7 and 10, each of these claims 2, 5, 7 and 10 is submitted to be patentably distinct for at least the same reasons as the independent claim from which it depends.

Therefore, it is respectfully submitted that the rejection of claims 1, 2, 5-7 and 10-13 under 35 U.S.C. §103(a) as allegedly being unpatentable over Kiron et al. in view of Groveman et al. and further in view of Heffner et al. has been overcome.

Finally, it is noted that this Amendment is fully supported by the originally filed application and thus, no new matter has been added. For this reason, the Amendment should be entered.

Accordingly, it is respectfully submitted that each objection and rejection raised by the Examiner in the August 21, 2008 Office Action has been overcome and that the above-identified application is now in condition for allowance.

Favorable reconsideration is earnestly solicited.



**Authorization**

Applicants hereby authorize and request that the Commissioner charge any additional fees that may be required for consideration of this and/or any accompanying and/or necessary papers to Deposit Account No. 03-1240, Order No. 17209-536. In the event that an extension of time is required (or which may be required in addition to that requested in a petition for an extension of time), Applicants request that the Commissioner grant a petition for an extension of time required to make this response timely, and, Applicants hereby authorize and request that the Commissioner charge any fee or credit any overpayment for such an extension of time to Deposit Account No. 03-1240, Order No. 17209-536.

In the event that a telephone conference would facilitate examination of the application in any way, Applicants invite the Examiner to contact the undersigned at the number provided.

Respectfully submitted,  
CHADBOURNE & PARKE LLP

Dated: July 29, 2009

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